

RESEARCH AGREEMENT

Among

FOUNDATION FOR FOOD AND AGRICULTURE RESEARCH,
COMPANY1,
COMPANY2,
COMPANY3,
And

THE BOARD OF REGENTS OF THE UNIVERSITY

This Research Agreement (“Agreement”) with the effective date of December 31, 2018 (“Effective Date”) is entered into by and among **Foundation for Food and Agriculture Research**, a US non-profit research foundation having a place of business at 401 9th Street NW, Suite 630, Washington, DC 20004 (“FFAR”), **Other Companies** collectively “COTF PPI Parties” and **The Board of Regents of the University**, a non-profit, public educational institution (“University”); hereafter referred to singularly as a “Party” and collectively as the “Parties”; non University Parties also singularly referred to as “COTF PPI Party” and collectively as the “COTF PPI Parties”, where “COTF” is “Crops of the Future Consortium” and “PPI” is “Plant-based Protein Improvement”.

WHEREAS, the Foundation for Food and Agriculture Research (“FFAR”) was established by Section 7601 of the Agricultural Act of 2014, Pub. L. 113-79 to (a) to advance the research mission of the United States Department of Agriculture by supporting agricultural research activities focused on addressing key problems of national and international significance, including: (i) plant health, production, and plant products; (ii) animal health, production, and products; (iii) food safety, nutrition, and health; (iv) renewable energy, natural resources, and the environment; (v) agricultural and food security; (vi) agriculture systems and technology; and (vii) agriculture economics and rural communities; and (b) to foster collaboration with agricultural researchers from the Federal Government, State (as defined in Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) governments, institutions of higher education (as defined in Section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001), industry, and nonprofit organizations and is incorporated as a 501 (c)(3) non-profit corporation.

WHEREAS, under Section 3 of the Act, FFAR is responsible for ensuring that the USD \$200,000,000.00 transferred to it under the Act is used in accordance with the requirements thereof. Specifically, FFAR can use the funds transferred under the Act to carry out the purposes of FFAR only to the extent FFAR secures at least an equal amount of non-Federal matching funds for each expenditure. Also, none of the funds made available under the Agricultural Act may be used for construction.

WHEREAS, the COTF is a consortium of agricultural companies and research institutions, organized by FFAR, and certain participants of the COTF, including FFAR, as the COTF PPI Parties have an interest in pursuing research on corn drought tolerance with the University;

WHEREAS, the University and the COTF PPI Parties desire to undertake a project to focus on understanding of the relationships between genes, traits, and the environment to improve plant-

based protein, all as described in more detail in the statement of work, attached as Exhibit A to this Agreement (the “Research Project”); and

WHEREAS, the Parties wish to enter into an agreement to specify the rights and obligations of each Party in execution of said Research Project.

NOW, THEREFORE, the Parties hereby mutually agree as follows:

1. SCOPE OF WORK.

- A. University shall use its reasonable efforts to perform the Research Project in accordance with the statement of work, attached as Exhibit A to this Agreement.
- B. The Research Project will be performed using materials from sources other than the University and the COTF PPI Parties. To the extent that this material has the potential to affect the rights and obligations as described in this Agreement, such material may only be used during the performance of the Research Project, after all Parties agree in writing to such use and the associated conditions. The University shall share all materials, used directly in performance of the Research Project, with the COTF PPI Parties and/or non-commercial third parties, pursuant to any necessary material transfer agreements. If material from other sources has no restrictions on its use, written permission is not required.

2. PERIOD OF PERFORMANCE. University shall use its reasonable efforts to perform the Research Project under this Agreement for a period of **three (3) years**, starting as of **December 31, 2018** and ending **December 30, 2021**.

3. PRINCIPAL INVESTIGATOR. Professors TBD and TBD, Co-Principal Investigators, shall direct the Research Project and technical report preparation following applicable University policies. In the event that either of the Co-Principal Investigators becomes unable to continue as a Principal Investigator, the University, after consultation with the COTF PPI Parties, shall propose a new Principal Investigator, with similar experience and knowledge about the subject of the Research. If the alternative Principal Investigator is not available or is not acceptable to two-thirds majority of the current COTF PPI Parties, then this Agreement shall be terminated. The coordinator on behalf of the COTF PPI Parties shall be the managing director of COTF.

4. PAYMENT; USE OF FUNDS.

- A. For the performance of the Research Project hereunder, the COTF PPI Parties shall pay University's direct and indirect expenses incurred in accordance with the research budget, attached hereto as Exhibit B (the “Funds”). The total allowable costs hereunder shall not exceed XXX dollars US Dollars (\$XXX). For clarity, the University overhead (indirect costs) shall be ten percent (10%) of the total budgeted costs of the Research Project. The COTF PPI Parties shall not be obligated to compensate any costs in excess of the aforementioned amount, unless the COTF PPI Parties have unanimously agreed otherwise. The decision not to compensate any costs in excess of the aforementioned amount shall neither affect the rights of the COTF PPI Parties to the Results (as defined hereinafter), as described in this Agreement nor University's obligation to conduct more research than agreed upon under this Agreement. For the

avoidance of doubt, any in-kind contribution by a COTF PPI Party shall be approved unanimously by all COTF PPI Parties. A COTF PPI Party shall only make an in-kind proposal once a year and within ninety (90) days of each anniversary date.

- B. Each COTF PPI Party will pay its pro rata share of the costs of the University, through FFAR, to be compensated in accordance with Clause 4.A above, in annual installments. The invoices for the first annual installment shall be sent by the University within thirty (30) days after the Effective Date. University shall send the invoices for the subsequent years on each anniversary of the Effective Date. University will submit invoices solely to FFAR. The amounts owed by each COTF PPI Party is listed separately in the table below:

Payment schedule for University component

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
FFAR	\$X	\$X	\$X
<u>COTF PPI Party</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
COMPANY1	\$X	\$X	\$X
COMPANY2	\$X	\$X	\$X
COMPANY3	\$X	\$X	\$X
Sub-Total	\$X	\$X	\$X

For a three-year grand total of \$ X

FFAR shall pay the invoice issued by the University within sixty (60) days of receipt thereof. Each COTF PPI Party shall be solely responsible for the payment of its own pro rata share to the FFAR, as detailed above. Payments for Year 2 and 3 will be as shown in the table above.

Should any Party fail to make any of the above listed payments when due, and such failure is not remedied within sixty (60) days after having received a written reminder, the other Parties shall have a right of termination in accordance with Section 12 F. lit i.. In the event of termination, the remaining Parties shall discuss how to deal with the loss of funds associated with payments not received from such Party under this Agreement to the University, for example by amending the statement of work to

account for the payment shortfall or by sharing the amount of shortfall amongst the remaining COTF PPI Parties pro rata. In the event of any non-payment by a non-paying COTF PPI Party, FFAR shall be responsible and ensure University is paid for all work performed and costs incurred by University prior to any amendment to the statement of work.

- C. FFAR and each COTF PPI Party shall mail its checks, payable to **“The Board of Regents of the University”** to:

Mailing Address

Alternately, FFAR and each COTF PPI Party may make payments to University electronically, and University shall provide wire information upon request.

Each payment shall include the invoice number and award number as referenced on the invoice.

- D. Restrictions on Use of Funds.
- a. No part of the Funds shall be used to carry on propaganda or otherwise attempt to influence legislation as defined in Section 4945(d)(1) of the Internal Revenue Code (the “Code”).
 - b. No part of the Funds shall be used to attempt to influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drive within the meaning of Section 4945(d)(2) of the Code.
 - c. No part of the Funds shall be used to provide a grant or award to an individual for travel, study or similar purpose within the meaning of Section 4945(d)(3) of the Code, without prior written approval of FFAR. Payments of salaries, other compensation or expense reimbursement to University employees within the ordinary scope of their employment do not constitute awards for these purposes and are not subject to these restrictions.

5. **RESULTS OF THE RESEARCH PROJECT.**

- A. “Results” shall mean any results obtained during the performance of the Research Project, such Research Project described in the statement of work, attached as “Exhibit A, Statement of Work” to this Agreement.
- B. The University shall be the owner of the Results, as they are generated by the University, and all Results generated by the individual COTF PPI Parties will be owned by the applicable COTF PPI Party(ies), and all Results generated together by the University and any of the COTF PPI Parties shall be owned jointly by such Parties.
- C. The University and each of the COTF PPI Parties shall make all Results available to the COTF PPI Parties through a secured website by means of a log-in code. University shall use data security and IT reasonable best practices to secure Results and access. Provided an COTF PPI Party has paid its *pro rata* share of the costs of the University

at the time of a request, to be compensated in accordance with Clause 4.A above, the University shall upon request provide said COTF PPI Party with all raw and analyzed data via an electronic means (such as via a FTP site) or a physical medium, such as a hard drive or DVD.

- D. During the term of this Agreement the University shall regularly inform the COTF PPI Parties about the progress of the Research Project by means of two annual meetings or - upon request – more meetings upon mutual agreement, including providing updates with regard to the Results in the form of written reports, which have already been made available via the secure website. Any new releases of the Results shall be made available by each owner of the Results to the COTF PPI Parties as soon as possible, also through the secured website. A final report of the Results shall be supplied to the COTF PPI Parties by the University not later than ninety (90) days after expiration or termination (for whatever reason) of this Agreement. University and Principle Investigator will also comply with FFARs reporting requirements related to use of public funds for this project.

The COTF PPI Parties will provide the COTF Qualified Participants with an annual report setting out the Results and may also update the COTF Qualified Participants on a quarterly basis on the general progress of the Research Project, without however providing any raw data before the one year period mentioned in Clause 5.F has been elapsed.

- E. Subject to Intellectual Property Rights of Clause 6, and taking into consideration Clause 5.F hereafter, each COTF PPI Party, together with its Affiliates (as defined hereafter) and each COTF Founding Participant (as defined hereafter), shall have the non-exclusive, worldwide, royalty-free, irrevocable right to use or have used any and all Results created hereunder by any Party for research and breeding purposes; and each COTF PPI Party and/or its Affiliates and each COTF Founding Participant has the right to use or have used, to produce or have produced, to treat or have treated, to commercialize or have commercialized and to deliver or have delivered the results (including any new varieties) generated by it (collectively “Own Results”) by using the Results of the University or any COTF PPI Party. As used herein, “COTF Qualified Participant” means those certain entities that were either founding participants in the COTF (the “COTF Founding Participants”) or that are members of the COTF Executive Committee (the “COTF Executive Committee Participants”), together with their Affiliates or Subsidiaries, as applicable, in each case that are set forth on Exhibit C to this Agreement. FFAR, on behalf of the COTF, may update Exhibit C on each anniversary of the Effective Date to include any additional COTF Qualified Participants. All such COTF Qualified Participants will be third party beneficiaries of this Agreement as far as it concerns the rights granted to them hereunder.

Said COTF PPI Party and/or its Affiliates and/or said COTF Founding Participants and their Subsidiaries or Affiliates as noted on Exhibit C shall possess the full, unencumbered ownership of its Own Results and all (user) rights pertaining thereto, without any further obligations towards the other Parties. These rights include the right to apply for intellectual property rights with regard to the aforementioned Own Results.

Subject to Intellectual Property Rights of Clause 6, and taking into consideration Clause 5.F hereafter, COTF Executive Committee Participants who are not COTF PPI

Parties shall have the option to negotiate with the University for access to the Results developed by University.

The Parties hereby understand and agree that the rights to the Results outlined in this Clause 5.E. are distinct from, and do not include the rights to, or of use, regarding Inventions, which are described in Clause 6 of this Agreement.

- F. Subject to Clause 7, "Publication, Presentation and Press Releases" of this Agreement, each Party shall treat all Results as confidential for a period starting at the moment that those Results are generated and ending one (1) year after the date on which those Results have been made available simultaneously to all COTF PPI Parties for the first time through the secured website. If the Results are not published within two (2) years after termination/expiration of the term of this Agreement, the confidentiality period will nevertheless end, subject however to Clause 7. All annual reports provided to the COTF Qualified Participants as described in Clause 5.D shall be provided under obligations of confidentiality no less restrictive than under this Agreement

During the aforementioned periods, a COTF PPI Party or a COTF Qualified Participant shall not disclose the Results to a third party. However, COTF PPI Parties and COTF Founding Participants are allowed to transfer or disclose the Results under confidentiality to their respective employees and the employees of their Affiliates or Subsidiaries, as applicable, in each case that are set forth on Exhibit C to this Agreement. COTF PPI Parties and COTF Founding Participants may furthermore transfer or disclose the Results under confidentiality to their respective service providers, but only when, and only to the extent that such disclosure is necessary for the performance of activities for the benefit, and on behalf of said entity. The compliance of said employees, Affiliates, Subsidiaries and service providers with the obligations under Clause 5 shall be the responsibility of the entity giving the access to the Results. Each COTF Qualified Participant is bound by obligations of confidentiality with respect to Results under the agreement governing the COTF.

Notwithstanding the foregoing, however, any portion of the Results may be shared by the University under confidentiality with collaborators from public institutions for public research after the date on which such portion of the Results have been made available to the COTF PPI Parties and COTF Founding Participants. During the aforementioned confidentiality period applicable to Results, the public institutions may however not use the Results for research with or for the benefit of for-profit entities that are not a Party to this Agreement or a COTF Founding Participant. The University may furthermore transfer or disclose the Results under confidentiality to its service providers, but only when such is necessary for the performance of activities for the benefit of the University. The University will ensure that its service providers and collaborators from public institutions will be bound to the confidentiality obligations outlined in Clause 5. Subject to Clause 7, after the aforementioned one-year confidentiality period, University may freely use the Results without restriction.

- G. The confidentiality obligations as described in Clause 5.F shall not apply to any Results which i) are or become available to the public through no breach of this Agreement by the Party or its Affiliates who wishes to disclose the Results; ii) are obtained from a third party who did not receive same from any Party or its Affiliates or

any COTF Qualified Participants, and had the legal right to disclose same; iii) prior to the date of generation or delivery (whichever applies) were already in the possession of the Party or Affiliates who wishes to disclose the Results; iv) are required to be disclosed by law, government regulation or court order provided however that the exception from the confidentiality obligations is limited to the specific request and the other Parties are informed of the request to disclose; or v) are independently developed by such Party and/or its Affiliates without use of or reference to the Confidential Information; or vi) are waived from the confidentiality period if agreed upon by all Parties in writing.

H. "Affiliate" shall mean, with regard to a COTF PPI Party or COTF Qualified Participant, any person or entity controlling, controlled by or under common control with that COTF PPI Party or COTF Qualified Participant, "control" meaning in this context the direct or indirect ownership of at least fifty percent (50%), or such lesser percentage which is the maximum allowed to be owned by a foreign entity in a particular jurisdiction, of the voting stock/shares of a company or the power to nominate at least half of the directors and/or the power to determine the policy of a company or organization in a decisive way.

I. "Subsidiary" shall mean, with respect to a COTF Qualified Participant, any person or entity controlled by that COTF Qualified Participant, control meaning in this context the direct or indirect ownership of at least fifty percent (50%) (or such lesser percentage which is the maximum allowed to be owned by a foreign entity in a particular jurisdiction) of the voting stock/shares of a company, or the power to nominate at least half of the directors, or the power otherwise to determine the policy of a company or organization.

6. **INTELLECTUAL PROPERTY RIGHTS.**

A. **University Rights.** In the event that an invention disclosure is filed with University by a University researcher for an Invention, within 60 days of such disclosure University will provide written notice of such Invention— hereinafter referred to as "Invention Notice" - to the coordinator of the COTF PPI Parties by email (Jeff Rosichan, JRosichan@foundationfar.org, or a successor appointed by FFAR by notice to the University), and FFAR will provide immediate written notice to each of the other COTF PPI Parties and the COTF Founding Participants and COTF Executive Committee Participants, as applicable. University shall attach to the Invention Notice the normal documentation provided in such notices, and shall reasonably communicate non-confidential information with the COTF PPI Parties. At its discretion the University may decide to apply for patent protection of Inventions of the University, and has to inform the other Parties if it applies for such patent protection without undue delay – hereinafter referred to as "Patent Application Notice".

B. With respect to any such Inventions, the University hereby grants to each of the COTF PPI Parties and their Affiliates and to each of the COTF Founding Participants (and their Affiliates or Subsidiaries, as applicable, as set forth on Exhibit C) a nontransferable, nonsublicensable, non-exclusive, royalty free, irrevocable worldwide research license to use such Inventions for internal research purposes.

The University also hereby grants to each of the COTF Executive Committee Participants who are not COTF PPI Parties, a time-limited, for a period not to exceed twelve (12) months from Invention Notice of each Invention to a COTF Executive Committee Participant as a potential licensee, the right to negotiate a non-exclusive, worldwide royalty-bearing research license under patent rights with respect to such Inventions. Said research license shall contain reasonable terms and shall include licensee's obligation to pay a pro-rata share of the patent costs based on the number of licensees and the countries it is itself interested in, as well as license fees. In case the negotiations fail, for a period of six months from the end of the aforementioned 12 month negotiation period, the University shall not grant such a license on more favorable conditions to any third party outside the COTF consortium than offered to the respective COTF Executive Committee Participants.

For a period of twenty-four (24) months after receipt of an Invention Notice by the COTF PPI Parties, the University shall inform the COTF PPI Parties if a third party outside the COTF consortium is interested in a license. Upon request by any COTF PPI Party within thirty (30) days following receipt of written notice that a third party outside the COTF consortium is interested in a license, University will delay granting of such a license to allow for the COTF Executive Committee Participant to negotiate for such license.

C. The University also hereby grants to each of the COTF PPI Parties and each COTF Qualified Participant a time-limited, for a period not to exceed twelve (12) months from Invention Notice of each Invention to a COTF PPI Party (including their Affiliates, as applicable) and a COTF Qualified Participant (including their Affiliates or Subsidiaries, as applicable) as set forth in Exhibit C, as a potential licensee, the right to negotiate a non-exclusive, worldwide royalty-bearing commercial license under patent rights with respect to University's interest in such Inventions. Said commercial license shall contain, reasonable terms, and with regard to the COTF PPI Parties reasonable terms that take into consideration the relative funding contribution provided by the COTF PPI Parties, and shall include COTF PPI Party- or COTF Qualified Participant-licensee's obligation to pay a pro-rata share of the patent costs based on the number of licensees and the countries it is itself interested in, as well as license fees. If a commercial license agreement is not concluded in the time period stated above, and no further written agreement is reached to extend the period of negotiation, University shall have no further obligations to each COTF PPI Party or COTF Qualified Party who does not receive the above listed license(s) with respect to said Invention(s), except that for six months after such period the University shall not grant such a license on more favorable conditions to any third parties outside the COTF consortium than offered to the respective COTF PPI Parties or PPI Qualified Participants.

For a period of twenty-four (24) months after receipt of an Invention Notice by the COTF PPI Parties, the University shall inform the COTF PPI Parties if a COTF Executive Committee Participant or third party outside the COTF consortium is interested in a commercial license to an Invention developed by the University in the performance of the Research Project. Upon request by any COTF PPI Party within sixty (60) days following receipt of written notice that a COTF Executive Committee Participant or third party outside the COTF consortium is interested in a license, University will delay granting of such a license.

D. In case any of the COTF PPI Parties has shown an interest in the commercial use of such patentable Inventions, the University shall, in good faith, take into account the input provided

by the interested COTF PPI Parties with regard to the filing, prosecution, maintenance and defense of such Inventions, including without limitation with regard to the wording of claims, the countries in which patents shall be filed and the overall patent strategy. However, final decisions related to these matters shall remain with University, in its discretion.

- E. Notwithstanding the above, in case the University is not willing to file or continue with the prosecution of a patent or patent application for the Inventions for certain or all countries, the University shall only offer rights in such Invention to the inventor(s) unless otherwise legally or contractually required (potentially including obligations to the U.S. Government).

- F. For purposes of this Agreement, "Invention" includes (i) any invention, which is capable of being protected by a patent and which is either conceived, developed and reduced to practice, or conceived, developed, and merely requires constructive reduction to practice, by the University in the course of the Research Project, or (ii) any invention, which is capable of being protected by a patent, other than the Results, which is conceived and developed in the performance of the Research Project, and either reduced to practice, or merely requires constructive reduction to practice, by the University in the course of further research based on the Results, not being the Research Project, but when such claimed invention necessarily incorporates the Results of the Research Project. Inventorship of any Invention subject to this Agreement will be determined in accordance with U.S. patent laws.

G. COTF PPI Party Rights. At its discretion each COTF PPI Party may decide to apply for patent protection of Project-specific Inventions of such COTF PPI Party. In case a COTF PPI Party applies for such patent protection: i) it shall provide written notice – hereinafter referred to as "Project-specific Invention Notice" - thereof to the coordinator of the COTF PPI Parties by email (Jeff Rosichan, JRosichan@foundationfar.org, or a successor appointed by FFAR by notice to the University), and FFAR will provide written notice to each of the other COTF PPI Parties and the COTF Founding Participants and COTF Executive Committee Participants, as applicable, and ii) the COTF PPI Party hereby grants to each of the COTF PPI Parties and their Affiliates and to each of the COTF Founding Participants (and their Affiliates or Subsidiaries, as applicable, as set forth on Exhibit C) and to the University a nontransferable, non-exclusive, royalty free, irrevocable worldwide research license to use such Project-specific Inventions for internal research purposes.

The applicable COTF PPI Party also hereby grants to each of the COTF Executive Committee Participants who are not COTF PPI Parties, a time-limited, for a period not to exceed twelve (12) months from Project-specific Invention Notice of each Project-specific Invention to a COTF Executive Committee Participant as a potential licensee, the right to negotiate a non-exclusive, worldwide royalty-bearing research license under patent rights with respect to such Project-specific Inventions. Said research license shall contain reasonable terms and shall include licensee's obligation to pay a pro-rata share of the patent costs based on the number of licensees and the countries it is itself interested in, as well as license fees. In case the negotiations fail, the owning COTF PPI Party shall not grant such a license on more favorable conditions to any third party outside the COTF consortium than offered to the respective COTF Executive Committee Participants, and shall be obliged to offer such more favorable conditions also to the respective COTF Executive Committee Participants.

For a period of two (2) years after the receipt of a Project-specific Invention Notice, the owning COTF PPI Party shall inform the other COTF PPI Parties if a COTF Executive Committee Participant has exercised the aforementioned option or if any other third party outside the COTF consortium is interested in a license. Upon request by any COTF PPI Party within sixty (60) days following receipt of such written notice, the owning COTF PPI Party will delay the granting of such a license

to a COTF Executive Committee Participant until twelve (12) months after the receipt of the respective Project-specific Invention Notice by the COTF PPI Parties, after which time the owning COTF PPI Party shall be free to grant such license.

to a third party outside the COTF consortium until twenty-four (24) months after receipt of the respective Project-specific Invention Notice by the COTF PPI Parties, after which time the owning COTF PPI Party shall be free to grant such license.

H. The applicable COTF PPI Party also hereby grants to each of the other COTF PPI Parties and each COTF Qualified Participant a time-limited, for a period not to exceed twelve (12) months from written notice as described above of each Project-specific Invention to a COTF PPI Party or a COTF Qualified Participant as a potential licensee, the right to negotiate a non-exclusive, worldwide royalty-bearing commercial license under patent rights with respect to such Project-specific Inventions and for the COTF PPI Parties with a right to sub-license to their Affiliates and for the COTF Qualified Participants with a right to sub-license to their Affiliates or Subsidiaries, as applicable, as set forth in Exhibit C. Said commercial license shall contain reasonable terms, and with regard to the COTF PPI Parties, reasonable terms that take into consideration the relative funding contribution provided by the COTF PPI Parties, and include COTF PPI Party- or COTF Qualified Participant-licensee's obligation to pay a pro-rata share of the patent costs based on the number of licensees and the countries it is itself interested in, as well as license fees. If a commercial license agreement is not concluded in the time period stated above, and no further written agreement between the inventing COTF PPI Party and another COTF PPI Party or COTF Qualified Party is reached to extend the period of negotiation, the inventing COTF PPI Party shall have no further obligations to the other COTF PPI Party or COTF Qualified Party that does not receive the above listed license(s) with respect to said Project-specific Invention(s), except that the owning COTF PPI Party shall not grant such a license on more favorable conditions to any third party outside the COTF consortium than offered to the other COTF PPI Parties or PPI Qualified Participants, and shall be obliged to offer such more favorable conditions to the respective COTF PPI Parties or PPI Qualified Participants.

For a period of two (2) years after the receipt of a Project-specific Invention Notice, the owning COTF PPI Party shall inform the other COTF PPI Parties if a COTF Executive Committee Participant has exercised the aforementioned option or if any other third party outside the COTF consortium is interested in a license. Upon request by any COTF PPI Party within sixty (60) days following receipt of such written notice, the owning COTF PPI Party will delay the granting of such a license

to a COTF Executive Committee Participant until twelve (12) months after the receipt of the respective Project-specific Invention Notice by the COTF PPI Parties, after which time the owning COTF PPI Party shall be free to grant such license.

to a third party outside the COTF consortium until twenty-four (24) months after receipt of the respective Project-specific Invention Notice by the COTF PPI Parties, after which time the owning COTF PPI Party shall be free to grant such license.

- I. JOINT COTF PPI Party and University Rights. In the event of joint Project-specific Inventions between one or more COTF PPI Parties and the University, the respective COTF PPI Parties and the University may at its discretion decide to apply for patent protection. In case the respective Parties agree to apply for a patent application, the respective Parties will agree in a separate agreement who shall be responsible for the filing, prosecution, maintenance and defense of respective patents and patent applications and the costs therefor. Subject to any licenses pursuant to this Agreement, the respective COTF PPI Parties and University shall have the independent right to fully exploit their interest in joint Project-Specific Inventions. Clauses 6.G and 6.H shall apply accordingly.
 - J. For purposes of this Agreement, "Project-specific Invention" includes any invention, which is capable of being protected by a patent and which is conceived, developed, and reduced to practice by one or more COTF PPI Party(ies) alone or together with the University in the performance of the Research Project, but shall not include any Own Results (as defined above). These Project-specific Inventions will be owned by the COTF PPI Party (or COTF PPI Parties, for any joint inventions) or jointly by such COTF PPI Parties and the University, as applicable. Inventorship of any Project-specific Invention will be determined in accordance with U.S. patent laws.
 - K. Notwithstanding anything to the contrary herein, all licenses granted under this Agreement, or to be granted under this Agreement, shall be granted to the extent they are legally and contractually available, and all licenses will be subject to and comport with Chapter 18 of Title 35 of the United States Code (35 U.S.C. §§ 200-212) and the regulations thereunder (37 C.F.R. Part 401). Nothing in this agreement shall be a grant of rights to any University invention or other intellectual property that is conceived, developed, created, or reduced to practice prior to this Agreement or outside the performance of the Research Project.
- 7. PUBLICATIONS, PRESENTATIONS AND PRESS RELEASES.**
- A. Subject to Section 7.B. below, it is contemplated that the Results may be published by the University, but only after the confidentiality period as mentioned in Clause 5.F first paragraph under "i)" has ended. This means that, subject to Section 7.B. below, the Results will be available for publication twelve (12) months after the date on which the Results have been made available simultaneously to all Parties for the first time through the secured website. As long as the aforementioned period has not yet ended, the University is only allowed to release non-enabling summaries and descriptions of the Results as part of presentations, publications and press releases, subject however to Section 7.B. below. As used in this Agreement, a non-enabling summary and description of the Results shall mean a summary and description of the Results which is not specific enough to allow additional research to be done by a third party which furthers the research done under this Agreement by the Parties.

- B. During the confidentiality period as mentioned in Clause 5.F first paragraph under “i”, but at least for the term of this Agreement and two (2) years thereafter, prior to any planned publication by University or before handing over the script or document intended for publication, whichever is the earlier, and including without limitation oral and written publications and posters, presentations at conferences and presentations in examination boards and any non-enabling summaries and descriptions of the Results, the University shall furnish a copy of any proposed publication (which is intended to be published during or after the aforementioned confidentiality period) to the coordinator of the COTF PPI Parties (Jeff Rosichan: JRosichan@foundationfar.org, or a successor appointed by FFAR). The coordinator shall submit a copy of the proposed publication to the other COTF PPI Parties. The COTF PPI Parties shall have thirty (30) days to review whether the publication is in line with the aforementioned limitation of Clause 7.A, or otherwise contains patentable information or Confidential Information. Such publication shall be delayed (up to a period of sixty (60) days) or adjusted at a Party’s request in consultation with the coordinator to conform with the aforementioned limitation, if applicable, to remove Confidential Information of the objecting Party, or to allow a Party to seek patent protection. University’s publication shall proceed, if during said review period, no responses has been received from the COTF PPI Parties. The University shall furthermore inform the coordinator of the COTF PPI Parties, and otherwise comply with this Clause 7, about any presentations, to be held by the University, during the period as mentioned in Clause 5.F first paragraph under “i)”, which presentation shall include non-enabling summaries and descriptions of the Results. The coordinator shall forward such message to the other Parties.
- C. Except as provided in Section 7.E below, upon final and full execution of this Agreement, the Parties may publicly disclose, in a factual manner, their respective participation to this Agreement only after prior written approval of the other Parties. Any press release prepared by a Party shall be sent via email to all other Parties for review at least fifteen (15) business days in advance of its release by sending this notice to each of the following e-mail addresses:

Party	e-mail Address
University	
FFAR	sgoldberg@foundationfar.org
Company1	
Company2	
Company3	

- D. Subject to Section 7.E, any publication, presentation or press release shall acknowledge the names of all Parties to this Agreement, unless a Party wishes not be named.
- E. No Party shall use the other Party's name, trademarks or other logos in any publicity, advertising, news release, publication or public presentation, without the prior written approval of an authorized representative of that Party. The Parties agree that each Party may respond to legitimate business inquiries with factual information regarding the existence and purpose of the relationship that is the subject of this Agreement, disclose such information to satisfy any reporting obligations, or as required by applicable law or regulation without written permission from the other Party. In any such statement, the relationship of the Parties shall be accurately and appropriately described. THE DISCLOSING PARTY SHALL PROMPTLY INFORM THE OTHER PARTIES OF ANY PUBLIC STATEMENTS THAT ARE MADE PURSUANT TO THIS SECTION. In any case, Section 5.G. last paragraph shall apply accordingly.
- F. In all public statements concerning FFAR, each Party should refer to FFAR by its full name: Foundation for Food and Agriculture Research. All publications, press releases, and documents about research that is funded by this grant must include the following:
 - (a) A specific acknowledgment of support from FFAR, such as: "Research reported in this [publication/press release] was supported in part by the Foundation for Food and Agriculture Research."
 - (b) A disclaimer that says: "The content of this publication is solely the responsibility of the authors and does not necessarily represent the official views of the Foundation for Food and Agriculture Research."
- G. Any FFAR publication referring to the Results or research performed by University hereunder shall be worded as not to imply endorsement by University or any other Party of a specific product or producer and shall reflect credit on University, its personnel and activities under this Agreement, in a manner consistent with academic publication standards.

8. CONFIDENTIALITY.

- A. "Confidential Information" shall mean any information that a Party exchanges within the scope of the Research Project, and which has been marked as confidential by that Party, as further detailed in Clause 8(B) of this Agreement. Unless otherwise provided under this Agreement, Confidential Information may only be transferred or disclosed by recipient Parties to their employees or the employees of their Affiliates

or Subsidiaries, as applicable and as set forth in Exhibit C and only when it is essential to the performance of Research Project under this Agreement. Confidential Information will be treated by the recipient Parties as strictly confidential and treated with at least the same level of care as they would treat their own confidential information, but in no event less than reasonable care. Use of the Confidential Information by a recipient Party is restricted to only those uses contemplated by the terms of this Agreement. Unless specifically exempted and/or otherwise provided for in the terms and conditions of this Agreement, the obligations of this Clause 8 shall survive and continue for five (5) years after termination/expiration of this Agreement. Any Results which are subject to the one-year confidentiality period of Clause 5.F shall also be considered as "Confidential Information". For the avoidance of doubt, notwithstanding anything said to the contrary herein, such Results do not have to be marked confidential or reduced to writing, if disclosed orally, and then marked confidential.

- B. Confidential Information must be clearly marked in writing as confidential when provided to another Party, or in the case of a verbal disclosure, reduced to writing and marked "confidential" by the providing Party within thirty (30) days of disclosure with a copy sent to the recipient Party or included in respective minutes and marked as "confidential" therein. Confidential Information does not include information that as evidenced by written or electronic records (i) is or becomes available to the public through no breach of this Agreement by the Party or Affiliates who wishes to disclose the Confidential Information; (ii) is obtained from a third party who had the legal right to disclose the information and did not receive it from any Party or their Affiliates; (iii) prior to the date of disclosure, was already in the possession of the recipient Party or Affiliates and at its free disposal; (iv) is required to be disclosed by law, government regulation or court order, provided that the disclosure is limited to the specific request and the other Parties are informed of the request to disclose; or (v) has been developed independently by the recipient Party or Affiliates, without reliance on or access to the Confidential Information of the disclosing Party.
9. **INDEMNIFICATION.** Each Party shall hold the other Parties harmless from and against any and all liability, direct loss, expenses and claims arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expenses and claims are directly caused by or directly result from the negligent or intentional acts or omissions of the first mentioned Party. Except for payment of money owed or infringement of intellectual property rights by a Party hereunder, in no event will that Party's aggregate liability to the other Parties under this Agreement exceed \$100,000. Except for the statutory limitations of University provided herein, nothing in this Section 9 shall however create a limit on any Party's liability for personal injury or death, or any willful misconduct or any breach of its confidentiality obligations under Article 8.
10. **REPRESENTATIONS/WARRANTY.**
- A. The University agrees to employ reasonable scientific and administrative efforts to fulfill the research objectives of the Research Project as described in Exhibit A and to report its findings.
- B. University represents that University is currently either (i) a tax-exempt organization described in Section 501(c)(3) of the Code and either (a) is not a private foundation and is not a Type III supporting organization described in Section (a)(3)(iii); or (b) is

an exempt operating foundation described in Section 4940(d)(2); or (ii) an organization described in Section 170(c)(1) or Section 511(a)(2)(B) of the Code. University shall promptly give written notice to FFAR if University ceases to be exempt from federal income taxation as an organization described in Section 501(c)(3), or its status as not a private foundation under Section 509(a) of the Code and not a Type III supporting organization under Section 509(a)(3)(B)(iii), as an exempt operating foundation described in Section 4940(d)(2), or as a Section 170(c)(1) or Section 511(a)(2)(B) organization is materially changed.

- C. University and all Parties providing genetic materials to the Project shall promptly inform the other parties as to the origin/source of such materials. It shall be the responsibility of each Party to ensure that any further use of such genetic materials for its own research or commercial purposes complies with any applicable international laws. Any transfer of MATERIAL shall however be subject to the execution of a Material Transfer Agreement (MTA) between the Parties.
- D. EXCEPT AS PROVIDED IN THIS SECTION 10, NEITHER PARTY MAKES ANY REPRESENTATION AND EXTENDS NO WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION THE EFFECTIVENESS, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE/USE, OWNERSHIP, OR CONDITION OF THE RESULTS, THE RESEARCH PROJECT, INVENTION(S), PROJECT-SPECIFIC INVENTIONS OR PRODUCT(S), WHETHER TANGIBLE OR INTANGIBLE, CONCEIVED, DISCOVERED, OR DEVELOPED UNDER THIS AGREEMENT.

11. COMPLIANCE WITH LAWS AND REGULATIONS.

- A. The University shall conduct the Research Project in accordance with the applicable U.S. laws, governmental regulations and agency guidelines.
- B. University represents and warrants that it will not knowingly take any action in relation to this Agreement that would be in violation of, or would subject any Party to any liability for, or penalty under, the applicable laws and regulations of any country including the United States of America; and:
 - i. Each COTF PPI Party represents that, if applicable, it has provided University a copy of its Code of Conduct (the "Code") and Anti-Corruption or Foreign Corruption Policy Agreement (FCPA) Policies (if any). If such Code is received by the University, University will comply with the principles embodied in the Code or policies to the extent they do not augment or conflict with the existing policies of University and state or federal laws that University is subject to. Further, University represents and warrants that its aforementioned employees will comply with the principles embodied in the Code or policies to the extent that they do not augment or conflict with the existing policies of the University and state or federal laws that University is subject to. If the Code and Anti-Corruption / FCPA Policy of any of the Parties is in conflict with the terms and conditions of this Agreement and in particular with the confidentiality obligation or the user rights to be granted, the Parties will discuss the consequences hereof for the Agreement.
 - ii. University represents and warrants that no payments of money or anything of value will be offered, promised or paid, directly or indirectly, to any Government Officials to influence the acts of such Officials to induce them to use their influence

- with a government or an instrumentality thereof, or to obtain an improper advantage in connection with any business venture or contract in which any of the Parties is a participant.
- iii. The Principal Investigator shall follow standard accounting procedures and regulations established and in force by University for the Research Project outlined in this Agreement.
 - iv. Should any Party other than University reasonably and in good faith believe that there may have been a breach of any representation or warranty of this Section 11, "Compliance with Laws and Regulations", of this Agreement, and informs the University accordingly, University shall cooperate in good faith with such Party to determine whether such a breach has occurred. If it is determined reasonably and in good faith that there has been a breach of any such representation, said Party shall have the right unilaterally to immediately terminate its participation in this Agreement or to take other appropriate action in accordance with the terms of this Agreement.
 - v. If such Code is received by the University, University agrees that it will alert any Affiliates/subsidiaries, sub-contractors, representatives, or agents that are retained in connection with this Agreement of their obligation to abide by any applicable laws and regulations, including any anti-corruption laws, and to endeavor to comply with the Code of Conduct and FCPA policies as provided by COTF PPI Parties.
 - vi. For purposes of this Agreement, an "Official" shall include all employees of a non-U.S. government department or agency, whether in the executive, legislative or judicial branches of government and whether at the national, state or local level (or their equivalents). The term covers part-time workers, unpaid workers, any person "acting in an official capacity," and members of a royal family. Also included under the term "Official" are political parties, party officials, and candidates for political office. Moreover, Officials include employees of public international organizations such as the United Nations ("U.N."), Food and Agriculture Organization of the U.N. ("FAO"), the International Cotton Advisory Committee ("ICAC") and the International Food Policy Research Institute. Finally, the term "Official" covers officers and employees of companies under government ownership or control, even if the companies are operated like privately owned corporations. In many instances, these persons are not treated as Officials by their own governments, and they will expect to be treated like any other private business person. For purposes of the FCPA, however, it is legally irrelevant whether a person is considered an Official by the government at issue. The U.S. law definition controls.
- C. University shall be responsible for compliance with the U.S. regulations regarding technology import and export, if applicable, and only to the extent such regulations relate to either the performance of the Research Project by University, or the provision of materials by University. This includes amongst others, filing the required applications and ensuring timely registration. In case of the relevant authorities do not issue the required approvals and documents, the Parties will discuss the consequences hereof for the Agreement.

12. TERM AND TERMINATION.

- A. This Agreement will go into effect on the Effective Date, upon the full execution of this Agreement.
- B. The Period of Performance shall commence as stated in Section 2 of this Agreement. The costs of the University, to be compensated in accordance with Clause 4.A above, shall be divided amongst the COTF PPI Parties. If a third party wishes to join this Agreement as a COTF PPI Party subsequent to the final execution of the Agreement, it may do so only after agreement of University and all COTF PPI Parties then parties to the Agreement, and payment of the full amount of each installment due from the effective date of this Agreement.
- C. The Agreement will continue in effect until the Research is completed, with any extension being agreed to by the COTF PPI Parties, and University, and evidenced in writing signed by Authorized representatives of the Parties. It is expected that the Research will be completed as stated in Section 2, "Period of Performance".
- E. If the COTF PPI Parties unanimously agree, the COTF PPI Parties may terminate this Agreement at-will upon ninety (90) days' written notice to University. The COTF PPI Parties will be responsible for all costs under Section 4.A until the effective date of such termination, including all committed costs. University agrees to wind-down the Research Project and use good faith efforts to minimize the wind-down costs due. University also reserves the right to terminate this Agreement at-will upon ninety (90) days' written notice to all other Parties. If University terminates this Agreement by written notice to the COTF PPI Parties, due to a breach of this Agreement by the COTF PPI Parties, and after a reasonable opportunity to cure such breach, the COTF PPI Parties will be responsible for all costs under Section 4.A until the effective date of such termination, including all committed costs (i.e., costs already incurred or where University has entered into an agreement or contract including a non-cancellable commitment). University agrees to wind-down the Research Project and use good faith efforts to minimize the wind-down costs due.
- F. With regard to any COTF PPI Party:
 - i. that has (a) not fulfilled its essential obligations under the Agreement, (b) not timely fulfilled its essential obligations under the Agreement, or (c) not properly fulfilled its essential obligations under the Agreement and, after having been summoned thereto in writing, is still in default by not having properly fulfilled its concerning obligations within a reasonable term, but not less than sixty (60) days, mentioned in the summons, without prejudice to the rights of the other Parties to claim the losses they have suffered as a result of the default and/or the termination of the Agreement;
 - ii. in respect of which a petition for a suspension of payment is filed, suspension of payment is granted, a petition for bankruptcy is filed, bankruptcy is granted, an administration order is filed, a receiver is appointed in respect of its assets or a general assignment for the benefit of creditors is made;
 - iii. that goes into liquidation or that permanently discontinues its business;

the other Parties, upon a majority vote, can terminate this Agreement with immediate effect with respect to said COTF PPI Party, without judicial intervention or any further summons being required, by giving notice to said COTF PPI Party by registered post with return receipt. The Agreement will

remain in full force and effect between the remaining Parties, unless the remaining Parties agree otherwise. Clause 13 of this Agreement shall apply to the Party, whose participation has been terminated, whereby said Party shall have no rights with regard to the Results obtained after the termination of its participation. Any remaining costs of the University, to be compensated in accordance with Clause 4.A above and owed by the COTF PPI Party, whose participation under the Agreement has been terminated, shall be divided and paid, *pro rata*, by the remaining COTF PPI Parties.

13. **SURVIVAL.** The rights and obligations of Section 5, 6, 7, 8, 9, 10, 11, 13, 14 and 16 shall survive and continue in force for an indefinite period of time beyond expiration or early termination of this Agreement (or as may be otherwise explicitly limited in time in the relevant Section itself).
14. **APPLICABLE LAW AND VENUE.** This Agreement will be construed and interpreted in accordance with the laws of the state of X, without regard to its choice of law provisions. If any dispute should arise between any of the Parties, such Parties shall use reasonable efforts to settle such dispute in amicable way before pursuing any remedy they may have at law. Any legal action brought by the Parties relating to this Agreement will be conducted in TBD.
15. **AGREEMENT AMENDMENTS.** The agreement to change the terms of this Agreement in any way shall be valid only if the change is made in writing and is signed by duly authorized representatives of the Parties.
16. **ASSIGNMENT.** The Agreement is personal to the Parties and may not be assigned in whole or in part to a third party (other than a Party's Affiliates), without the prior written consent of the other Parties. The University shall nevertheless be entitled to subcontract part of the Research Project to be performed under this Agreement, to a reputable outside third party. The compliance of the outside third party with the obligations under this Agreement shall be the responsibility of the University.
17. **INDEPENDENT CONTRACTOR.** Nothing in this Agreement shall be construed to create an employer/employee relationship between the Parties. The University shall be deemed to be at all times an independent contractor.
18. **ENTIRE AGREEMENT.** This Agreement and Exhibits A, B and C constitute the entire agreement between the Parties with respect to the Research Project. This Agreement, including its Exhibits, supersedes any prior written or oral agreement between the Parties with respect to the Research Project.
19. **MISCELLANEOUS.** This Agreement shall not be construed to limit the freedom of the Parties to engage in any other research.
20. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be an original as against the Party whose signature appears thereon, but all of which taken together shall constitute but one and the same agreed upon instrument

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates noted below.

**FOUNDATION FOR FOOD AND
AGRICULTURE RESEARCH**

By _____

Signature: _____

Date: _____

COMPANY1

By _____

Signature: _____

Date: _____

COMPANY2

By _____

Signature: _____

Date: _____

COMPANY3

By _____

Signature: _____

Date: _____

**THE BOARD OF REGENTS OF THE
UNIVERSITY**

By _____

Signature: _____

Date: _____

Exhibit A: Statement of Work

Project Overview:

Approach

Objectives

Deliverables

Budget Justification

Senior/Key Personnel:

Other Personnel:

.

Total Salary Requested: \$X

Total Fringe Benefits Requested: \$X

Total Personnel Costs: \$X

Equipment:

Travel:

Other Direct Costs:

Total Direct Costs: \$X (\$X in Y1 and \$X/year in years 2 and 3).

Indirect Costs (\$X) are calculated as 11.111% of total direct costs (equivalent to 10% of total budget request).

Total Budget Request: \$X (\$X in Y1 and \$X/year in years 2 and 3).

Matching: *“The Crops of the Future Consortium will be bringing/ arranging all of the match funding required by FFAR to meet our mandated 1:1 requirement.”*

Inflation Index:

Salaries and benefits are indexed at 0.0% p. a.

Budget Summary:

Exhibit C

May 2019 Qualified COTF Participants

Founding Participants:

Sao Paulo Research Foundation (FAPESP)

KWS

Elo Life Systems

Rijk Zwaan

Executive Committee Participants:

All the above

Benson Hill Biosystems

KeyGene

Syngenta Crop Protection AG